

Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.

ATTORNEY FOR APPELLANT:

LILABERDIA BATTIES
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE:

STEVE CARTER
Attorney General of Indiana

MARJORIE LAWYER-SMITH
Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

VERNON WILLIAMS,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

)
)
)
)
)
)
)
)
)
)
)

No. 49A02-0702-CR-185

APPEAL FROM THE MARION SUPERIOR COURT
CRIMINAL DIVISION, ROOM 6
The Honorable Jeffrey Marchal, Magistrate
The Honorable Mark D. Stoner, Judge
Cause No. 49G06-0609-FC-170802

October 18, 2007

MEMORANDUM DECISION – NOT FOR PUBLICATION

RILEY, Judge

STATEMENT OF THE CASE

Appellant-Defendant, Vernon Williams (Williams), appeals his conviction for operating a motor vehicle while privileges are forfeited for life, a Class C felony, Ind. Code § 9-30-10-17.

We affirm.

ISSUE

Williams raises one issue on appeal, which we restate as follows: Whether the State presented sufficient evidence to prove beyond a reasonable doubt Williams operated a motor vehicle while privileges are forfeited for life.

FACTS AND PROCEDURAL HISTORY

During the early morning hours of September 9, 2006, Officers Jeremy Gates and Steven Jenkins (collectively, the Officers) were patrolling in their marked police vehicle along Valley Road in Marion County and noticed a vehicle slowly approaching them. The Officers observed the passenger's side door open and the vehicle come to a stop in a traffic lane. Officer Jenkins was driving and after activating the emergency lights made a u-turn to make sure everything was all right in the vehicle. Officer Gates kept an eye on the vehicle, and no one appeared to have switched seats.

As the Officers approached the vehicle, the ignition was running. Officer Jenkins asked that the vehicle be turned off; Williams, who was in the driver's seat, complied. The Officers asked for identification from Williams and the passenger in the car. After confirming Williams was a habitual traffic violator, he was placed under arrest.

On September 11, 2006, the State filed an Information charging Williams with operating a motor vehicle while privileges are forfeited for life, a Class C felony, I.C. § 9-30-10-17. A bench trial was held January 4, 2007, and completed January 12, 2007. The trial court found Williams guilty as charged. On January 19, 2007, the trial court sentenced Williams to two years, to be served through Community Corrections in the Home Detention Program.

Williams now appeals. Additional facts will be provided as necessary.

DISCUSSION AND DECISION

Williams argues that the State presented insufficient evidence to sustain his conviction for operating a motor vehicle while privileges are forfeited for life. Specifically, Williams contends the State failed to present sufficient evidence beyond a reasonable doubt that he (1) operated the vehicle, and (2) had been notified or had knowledge that his driving privileges had been suspended for life.

Our standard of review for a sufficiency of the evidence claim is well settled. In reviewing sufficiency of the evidence claims, we will not reweigh the evidence or assess the credibility of the witnesses. *White v. State*, 846 N.E.2d 1026, 1030 (Ind. Ct. App. 2006), *trans. denied*. We will consider only the evidence most favorable to the judgment, together with all reasonable and logical inferences to be drawn therefrom. *Id.* The conviction will be affirmed if there is substantial evidence of probative value to support the conviction of the trier of fact. *Id.* \

In order to sustain a conviction under I.C. § 9-30-10-17, the State must prove beyond a reasonable doubt that Williams (1) operated a motor vehicle; (2) after his driving privileges were forfeited for *life*; and (3) he knew or should have known that his driving privileges were forfeited. *Arthur v. State*, 824 N.E.2d 383, 388 (Ind. Ct. App. 2005), *trans. denied*. (emphasis added).

Williams first claims that the State failed to prove beyond a reasonable doubt that he operated the motor vehicle. First, Officer Gates, then Officer Jenkins, testified that Williams was driving the vehicle that they observed come to a stop in a traffic lane. Conversely, Williams testified he never operated the vehicle; rather, he was merely waiting in the driver's seat while his cousin went to buy gasoline for the vehicle. The trial court, in ruling on the case, said, "[b]ased upon the evidence presented, the [c]ourt finds that the testimony of the State's witnesses is credible. This [c]ourt does not find the testimony of [Williams] credible." (Tr. pp. 66-67). Williams is effectively asking us to assess the credibility of the witnesses in this case, however that is outside the scope of our review in a sufficiency matter. *See White*, 846 N.E.2d at 1030. Thus, we find the State presented sufficient evidence beyond a reasonable doubt that Williams operated the motor vehicle.

Additionally, Williams claims that the State failed to prove that he knew his driving privileges were forfeited for life; specifically, he alleges that his Bureau of Motor Vehicles Driving Record indicated only that he was suspended as a habitual traffic violator, and that he was suspended for ten years beginning August 28, 1998, not that he was suspended for life. Despite Williams' argument about what he believed to be his suspension, the record

undeniably establishes that in 2001 he was found guilty of operating a motor vehicle while a habitual traffic violator, a Class D felony, and in 2005 he was found guilty of operating a vehicle while suspended as a habitual traffic violator, a Class D felony. Additionally, in 2005, part of Williams' sentence included that his "driver's license [was] suspended for [his] lifetime."¹ (Exhibits p. 13). Therefore, we follow the line of cases from this court holding that evidence of prior convictions is sufficient to support the current conviction, reasoning:

A defendant who has been convicted of being an habitual traffic offender and whose license has accordingly been suspended for life has almost certainly appeared in court, entered a plea of guilty or been convicted after a trial in which he participated, and been sentenced by the trial court to a lifetime suspension.

Wilkinson v. State, 743 N.E.2d 1267 (Ind. Ct. App. 2001), *trans. denied* (quoting *Pierce v. State*, 737 N.E.2d 1211 (Ind. Ct. App. 2000), *trans. denied*). Thus, we conclude the State presented sufficient evidence that Williams knew his driving privileges were forfeited for life.

¹ We note that the box indicating Williams' license was suspended for life was not checked on State's Exhibit 3: Order of Judgment of Conviction. ("Lifetime" was handwritten into the blank provided to indicate for how long the defendant's license is suspended. (Exhibit p. 13).) However, in light of Williams' counsel's comments that "the 2005 conviction does indicate there's a lifetime suspension . . ." and the supporting case law, we find the failure to check the box is an insignificant clerical error. (Tr. p. 32).

CONCLUSION

Based on the foregoing, we conclude the State presented sufficient evidence Williams operating a motor vehicle while privileges are forfeited for life.

Affirmed.

SHARPNACK, J., and FRIEDLANDER, J., concur.